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Letter dated 13 April 2006 from the Chargé d'affaires a.i. of the Permanent Mission of Samoa to the United Nations addressed to the Chairman of the Committee

On the instructions of my Government, I have the honour to enclose herewith the first report of Samoa to the Security Council Committee established pursuant to resolution 1540 (2004) (see annex).

The Government of Samoa stands ready to provide any further information as may be requested by the Committee.

(*Signed*) Perina Jacqueline **Sila**
Chargé d'affaires a.i.

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Annex to the letter dated 13 April 2006 from the Chargé d'affaires a.i. of the Permanent Mission of Samoa to the United Nations addressed to the Chairman of the Committee

Report of Samoa on actions taken by the Government to implement Security Council resolution 1540 (2004)

Introduction

Pursuant to United Nations Security Council resolution 1540 (UNSCR 1540) States are required, within six months from the adoption of the resolution, to present a report to the 1540 Committee of the Council on the steps they have taken or intended to take to implement the resolution.

Accordingly, this report sets out the policy, legislation and operational mechanisms operating in Samoa to implement the requirements of UNSCR 1540.

Operative Requirements of 1540

OP 1. Decides that all States shall refrain from providing any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

In addition to withholding any support whatsoever to entities – whether State on non-state actors, attempting to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological WMD's and their means of delivery the government of Samoa is committed, to the greatest extent possible to actively opposing such activities.

This policy is reflected in a number of international conventions and arrangements adopted by Samoa, namely the 1985 South Pacific Nuclear Free Zone Treaty 1986 (Treaty of Rarotonga), 1996 Comprehensive Test Ban Treaty (CTBT), 1992 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and their Destruction, (CWC), the 1968 Convention on the Treaty on the Non- Proliferation of Nuclear Weapons (NPT), and the 1963 Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water: Moscow.

Samoa has also signed and ratified the 1995 Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Trans-boundary Movement and Management of Hazardous Wastes within the South Pacific (the Waigani Convention).

The government of Samoa agrees in principal with the objectives of the remaining conventions and arrangements relevant to UNSCR 1540 and is giving consideration to these relative to other domestic and international priorities.

OP 2. Decides also that all states, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-state actor to manufacture, acquire, possess, develop,

transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the forgoing activities, participate in them as an accomplice, assist or finance them.

Currently, the primary legislation controlling the possession and use of weapons in Samoa is the *Arms Ordinance 1960* and the *Police Offences Ordinance 1961*. These Ordinances have not been the subject of any major revision since they were enacted and as such are primarily aimed at conventional weapons such as firearms, ammunition and explosives.

There is no domestic legislation in Samoa that specifically regulates and controls the manufacture, acquisition, possession, development, transportation, transfer or use of nuclear, chemical or biological weapons, their means of delivery and related components. The provision of specific legislative coverage for these items would either require amendments to existing legislation or new legislation.

As far as terrorist acts involving the use of nuclear, chemical or biological weapons are concerned these are covered by Samoa's domestic law. In addition to general offences relating to crimes such as murder, attempted murder etc. the *Prevention and Suppression of Terrorism Act 2002 (PSTA)* contains a number of new criminal offences specifically directed at terrorist acts, including:

- carrying out, attempting, or participating in a terrorist bombing;
- taking, or attempting to take hostages;
- attacking, attempting, or threatening to attack an Internationally Protected Person or their property;
- unlawfully seizing, attempting or threatening to seize an aircraft or ship;
- committing, attempting or threatening acts of violence at an airport;
- financing or assisting to finance terrorist acts.

The maximum penalty for the most serious of these offences is life imprisonment.

OP 3. Decides also that all states shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

There is some legislative coverage regarding the importation and use of chemicals and substances that may be relevant to UNSCR 1540. The *Quarantine(Biosecurity) Act 2005* governs "biosecurity risks" that are defined as diseases or pests likely to cause damage to human beings, animals, the environment or economic activities. The Act:

- prohibits the importation of living cultures or organisms unless authorised by a permit issued by the relevant authority (s14);
- provides for the prohibition, by notice, of goods deemed to present an unacceptably high biosecurity risk to Samoa either generally, or from specified country's of origin (s15);
- confers powers on enforcement authorities to search, inspect and examine relevant goods entering, or being trans-shipped through Samoa.

- empowers the Minister responsible for the Act to enter into agreements with countries or organizations regarding the management and control of domestic and international biosecurity risks;
- creates offences carrying a maximum penalty of up to twelve (12) months imprisonment.

The *Pesticides Act 1978* regulates the importation and use of chemicals as agricultural pesticides or fertilisers. The Act establishes a Pesticides Committee an inter-agency committee, chaired by the MAFFM) that considers all applications to import, register and use agricultural pesticides and fertilisers. Pesticides must be registered with the Registrar of Pesticides, a body chaired by the Ministry of Health and Natural Resources.

(b) Develop and maintain appropriate effective physical protection measures;

The government of Samoa considers the risk of nuclear, chemical or biological weapons, or delivery systems being present within Samoa to be very low. Reasons for this include the small size of the country, the demographics and small size of its population, its remote location, limited commercial air and sea routes and the tight controls applied at the relevant points of origin i.e. – Australia, New Zealand and Fiji.

The low level of risk is reflected in the relatively light legislative controls currently applied to nuclear, chemical and biological weapons, delivery systems, and related components. However, at an operational level there is a high level of readiness and capability to identify and investigate persons who might be involved in developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, chemical or biological weapons, their means of delivery and related materials. Within Samoa, Police, Customs, Immigration, Agriculture and Forestry, Health and the Transnational Crime Unit operate closely to share and act upon intelligence regarding potential risks of terrorist or criminal activity and regularly exchange information with regional and international intelligence agencies.

(c) Develop and maintain appropriate border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international laws;

Overall responsibility for border security issues is managed by the National Border Management Committee (NBMC). The government established this body in 2002 to act as a high level forum for consultation and decision making among border and law enforcement/security agencies. A key objective of the NBMC is to ensure that the countries borders are secure and managed effectively.

The NBMC is chaired by the Chief Executive of the Prime Ministers Department and is comprised of senior officials from the following agencies; Immigration, Customs, Police, Justice, the Attorney General, Transnational Crime Unit, Human Quarantine, Plant and Animal Quarantine, Port Authority, Airport Authority, Airlines and shipping, Treasury, and the Public Service Commission. The Body meets regularly to discuss border control issues and to exchange relevant information.

Initiatives developed by the NBMC relevant to UNSCR 1540 include the establishment of a Maritime Safety Committee, as a sub-committee of the NBMC to oversee the development of security plans for sea ports and ships to implement the requirements under the International Convention on SOLAS and Code for Ship and Port Security. Samoa is fully compliant with the requirements of these arrangements.

At an operational level, agencies such as Immigration and Customs operate at the border to detect suspicious activity using a new computerised Border Management System (BMS). This system provides real time access to a range of watch-lists linked to several intelligence databases. These include the list of designated persons and entities maintained by the 1267 Committee and other persons considered to be of interest to Samoan or international law enforcement agencies. If a listed person presented at the border the system would trigger a flag and result in officials taking immediate and appropriate steps.

All relevant government agencies have access to BMS and can add intelligence information linked to named individuals. The system has built in safeguards as protection against unauthorised access or use.

In order to enhance Samoa's law enforcement/ security intelligence capability the government established the Transnational Crime Unit (TCU) to act as a specialist intelligence unit on terrorist or organised criminal activity. The unit is attached to the Department of Prime Minister and is comprised of staff seconded from Police, Customs, and Immigration agencies. The unit acts as the primary coordination point for the collection and distribution of intelligence related to suspected terrorist and organised criminal activity. The unit has close relationships with the Pacific Transnational Crime Coordination Centre (PTCCC) in Suva, Fiji, Interpol and other relevant intelligence agencies within the Pacific region and internationally.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal and civil penalties for violations of such export control laws and regulations;

The primary legislation governing the movement of goods over Samoa's borders is the *Customs Act 1977*. The Act contains a list of prohibited goods prescribed by the Prime Minister. The list includes firearms, ammunition and explosives. These items can only be imported under permits issued by the government.

Samoa has security plans in place for its seaport and ships entering its territory that has been developed by the Maritime Safety Committee, a sub-committee of the National Border Management Committee. These plans will ensure Samoa complies with the International Convention on SOLAS and the new International Ship and Port Security Code.

At an operational level, if any goods were located by customs officials during routine searches of ships, aircraft and related cargo that were suspected of being related to terrorist activity other relevant agencies would immediately be notified along with regional intelligence bodies such as Pacific Transnational Crime Coordination Centre (PTCCC).

OP 5 Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of state parties to the Nuclear Non Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organisation for the Proliferation of Chemical Weapons.

The Government of Samoa recognises that none of the obligations contained in UNSCR 1540 are to be interpreted in a manner that conflict with or alter the rights and obligations of state parties to the Nuclear Non Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or

alter the responsibilities of the International Atomic Energy Agency or the Organisation for the Proliferation of Chemical Weapons.

OP 6 Recognises the utility in implementing this resolution of effective national control lists and calls upon all member states, when necessary to pursue at the earliest opportunity the development of such lists.

Officials from relevant agencies are considering a range of options to enhance the implementation of UNSCR 1540, including the possible use of a national control list. Once the preferred approach is identified from the range of options officials will seek policy decisions from Ministers.

OP 7 Recognises that some states may require assistance in implementing the provisions of this resolution within their territories and invites states in a position to do so to offer assistance as appropriate in response to specific requests to the states lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions.

The government of Samoa would welcome any technical assistance that is available in assisting it to fully implement the requirements of UNSCR 1540.

OP 8 Calls upon all states:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, chemical and biological weapons;

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organisation for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws.

OP 9 Calls upon all states to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical and biological weapons, and their means of delivery.

OP 10 Further to counter that threat, calls upon all states, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials.

In relation to **OP's 8, 9 and 10,** Samoa supports, to the greatest extent possible international initiatives to reduce the threat posed by the proliferation of nuclear, chemical and biological weapons, their means of delivery and related components. It will continue to participate and contribute to efforts (primarily in the Pacific region) to reduce this threat.